Public Service Grievance Board

ANNUAL REPORT

2014-2015

MESSAGE FROM THE CHAIR

I am pleased to report that the Public Service Grievance Board has continued to carry out its mandate with skill, integrity and impartiality and in a cost effective manner during the fiscal year 2014-2015. This mandate is to provide independent dispute resolution services (mediation, mediation/arbitration, and arbitration) for employment disputes involving certain members of the Ontario Public Service who are not covered by a collective agreement and their government employers.

The Public Service Grievance Board is an independent employment tribunal that exercises the powers and duties conferred upon it by the Public Service of Ontario Act, 2006, and O. Reg. 387/07. The Board's goal is to encourage harmonious workplace relations within the Ontario Public Service by dealing with the disputes brought before it in a fair, impartial and expeditious manner. I can report that the Board achieved this goal through the combined efforts of the Board's very capable members and staff.

This fiscal year continued a period of transition for the Board. From April to October, Kathleen O'Neil served as part-time Interim Chair. In January 2015, she was appointed part-time Chair, as were two new part-time members, Reva Devins and Marilyn Nairn. Member Deborah Leighton continued to serve the Board on a part-time basis for the whole fiscal year. All four are professional labour relations adjudicators who bring to the Board extensive experience in the broader labour relations community as well as a particular familiarity with the Ontario public service. Their skill, experience, and professionalism are at the core of the effectiveness of the Board as an independent dispute resolution agency. The Board's ability to schedule and conclude matters on a timely basis will be significantly enhanced with the addition of the two new members.

The Board's administrative staff continues to be led by Caroline Goodwin, the Board's Secretary. As a part-time Chair, I am very much in her debt, and in the debt of her capable staff, for the impressive efficiency with which the Board is run. Their work is essential to fulfilling the Board's responsibility to be administratively accountable within the larger structure of government. Through their efforts, the Board has been able to meet its administrative responsibilities in a timely, responsible and cost effective manner.

Kathleen G. O'Neil
Chair, Public Service Grievance Board
June 2015

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1. PSGB MANDATE

The Public Service Grievance Board (PSGB) is an independent adjudicative tribunal that exercises the powers and duties conferred upon it by the Public Service of Ontario Act, 2006, and O. Reg. 387/07. The PSGB is classed as an adjudicative agency accountable to the legislature through the Chair of Management Board of Cabinet. The overall objective of the Board is to provide dispute resolution services between certain management/excluded crown employees and the government as their employer.

The adjudicative independence and neutrality of the PSGB is preserved by its physical location - it is separated from government agencies other than its co-tribunal the Grievance Settlement Board (GSB), and by the fact that the members of the PSGB are labour relations mediators/adjudicators who are prominent and well respected in the broader labour relations community. The Board's Chair and its Members bring to it extensive experience in both mediation and adjudication. When third party intervention is needed, the Board provides mediation or, in the alternative, an expeditious process of adjudication.

2. HUMAN RESOURCES

LIST OF APPOINTEES – PUBLIC SERVICE GRIEVANCE BOARD

Name of Appointee	OIC Appointment	Initial Appointment	Expiry Date of Current OIC
Kathleen O'Neil	Chair	January 5, 2015	January 4, 2017
Reva Devins	Member	January 5, 2015	January 4, 2017
Deborah Leighton	Member	September 25, 1992	July 30, 2015
Marilyn Nairn	Member	January 5, 2015	January 4, 2017

3. ORDER IN COUNCIL APPOINTMENTS

CHAIR

KATHLEEN O'NEIL
Kathleen G. O'Neil brings over twenty-five years of experience as an adjudicator to her position as Vice Chair, Ontario Public Service Grievance Board. She previously served as Vice Chair of the Ontario Labour Relations Board (1988 to 1997), and of the Workers' Compensation Appeals Tribunal (1986 to 1988). Since 1997, she has been active in her private practice as a mediator and arbitrator dealing with grievances under Ontario and federal labour statutes, as well as a mediator in a wide variety of matters including human rights, employment related disputes, and general civil litigation. Admitted to the Bar of Ontario in 1979, she holds a B.A. from the University of Toronto and an LL.B. (now J.D.) from Osgoode Hall Law School.

MEMBERS

REVA DEVINS
Reva Devins is a full time arbitrator and mediator. She is a Vice Chair of the Grievance Settlement Board and is the Associate Chair under the 1986-90 Hepatitis C Class Action Settlement. She has also been appointed as a mediator/arbitrator under the Walkerton Compensation Plan, the UCC Claims Resolution Plan and was a member of the Canadian Human Rights Tribunal (1995-2005). Ms. Devins was called to the Bar of Ontario in 1985 and holds degrees from York University (B.A), Osgoode Hall Law School (LL.B.) and Harvard Law School (LL.M.).

DEBORAH LEIGHTON
Deborah J.D. Leighton, B.A. (Law, Oxford), L.L.M, J.D., is an Adjunct Professor in the School of Policy Studies at Queen's University. There she teaches courses in labour and employment law, human rights, arbitration and mediation. Her private practice includes mediations and arbitrations of commercial and labour disputes. Ms. Leighton is named as a mediator/arbitrator in numerous collective agreements, including Air Canada and ACPA's collective agreement and AGO and OPSEU's collective agreement. She is also a Vice Chair of the Grievance Settlement Board, and has served as an adjudicator for the Ontario Human Rights Tribunal (1992-98). Ms. Leighton is a member of the Florida Bar and the Law Society of Upper Canada.

MARILYN NAIRN
Originally from Winnipeg, Marilyn Nairn is a graduate of the University of Ottawa Law School and was called to the Ontario bar in 1982. She practiced labour law in Toronto until 1987 when she accepted the position of counsel to the Ontario Labour Relations Board. In 1989 Ms. Nairn was appointed a Vice-Chair of the OLRB, where she served for three terms, following which, she expanded her successful practice as labour arbitrator and mediator. Ms. Nairn is a member of the National Academy of Arbitrators

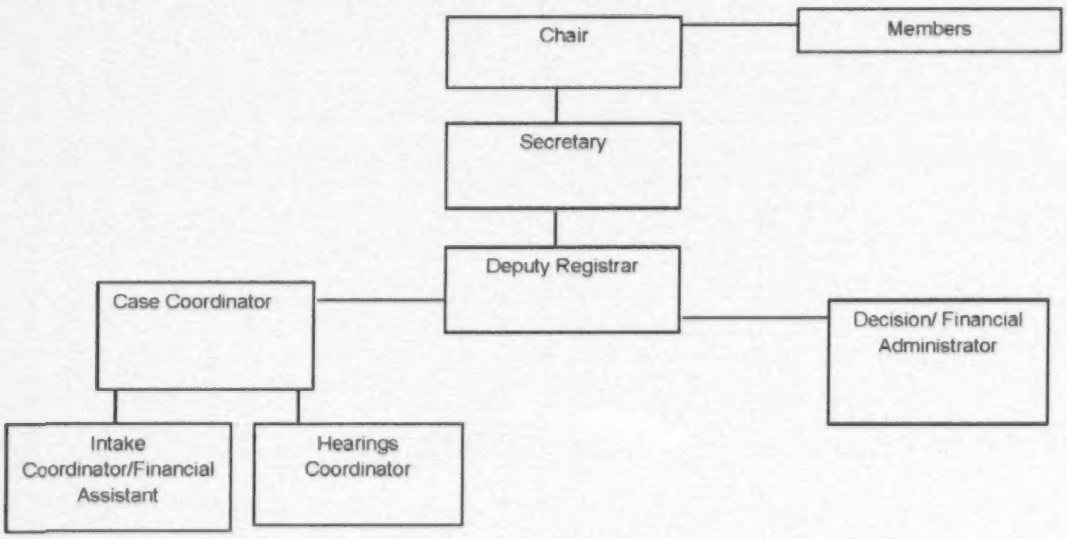
and the Ontario Labour-Management Arbitrators' Association and has held various positions on the executive of the Labour Section of the Ontario Bar Association. She has completed an advanced mediation course at Osgoode Hall Law School, has taught at both the college and university levels in the area of labour law, and has appeared as a speaker on various panels and at conferences in the areas of labour law and human rights. She was appointed to the Grievance Settlement Board on October 31, 2001.

THE SECRETARY

CAROLINE GOODWIN

Caroline Goodwin has over 30 years of experience as an administrator in the labour relations field, commencing her OPS career with the Grievance Settlement Board. During her career, she gained broad experience through secondments with the Ministry of Labour, Finance and Administration Branch, the Human Rights Tribunal of Ontario, and the Pay Equity Hearings Tribunal. She has served as the Board's secretary since 2003.

Organizational Chart -PSGB



4. OVERVIEW OF ACTIVITIES

PSGB Mission Statement

To provide appropriate dispute resolution services to management/excluded employees and their employers in a fair, impartial and expeditious manner and promote harmonious labour relations in the Ontario Public Service.

Overview of Programs and Activities

By statute, the PSGB is comprised of a minimum of a part-time Chair and two part-time Members. Members of the PSGB bring to it extensive experience as both labour mediators and arbitrators.

The administrative functions of the PSGB are performed by a full-time administrative staff under the direction of the Board's Secretary. For those who use the PSGB's dispute resolution services, the first point of contact is with its administrative staff.

Once a complaint has been filed with the PSGB, mediation is usually the first step in the Board's dispute resolution process. A confidential mediation session provides the opportunity for complainants and their employer to resolve complaints in an expeditious and informal manner. A large proportion of complaints are now successfully resolved through the PSGB's mediation process conducted by one of the Board's members (Chair or Member).

If a complaint cannot be resolved through mediation, it is then scheduled for a full adjudicative hearing. At these hearings, evidence and arguments are presented in a more formal manner. A member of the PSGB (Chair or Member) will preside over the hearing, deal with procedural and evidentiary issues, listen to the evidence and argument, and then prepare a written decision. In more complicated cases the hearing could take longer than one day.

It can be seen from this overview that the PSGB makes available to complainants and their employer both mediation and adjudicative services. Regardless of which process is followed, however, it is always the primary concern of the PSGB that complaints be resolved in a fair, impartial, and expeditious manner.

The number of new complaints filed with the Board has increased substantially over the past three fiscal years, with a single year increase from 52 to 148 between the 2011/2012 and 2012-2013 fiscal years, keeping our active case load much higher than in past years. However, through effective case management and successful mediation our active case load is down from the previous fiscal 2013-2014. (See charts on pp. 9 to 11 below).

5. PSGB APPLICATIONS FILED 2010-2014

PUBLIC SERVICE GRIEVANCE BOARD ACTIVITY

TOTAL = NEW PSGB FILES FOR FISCAL 2011-2012		*% of change over previous fiscal*
APRIL:	1	75.00 % decrease
MAY:	5	0.00 % decrease
JUNE:	4	20.00 % decrease
JULY:	6	20.00 % increase
AUGUST:	12	1100.00 % increase
SEPTEMBER:	6	50.00 % increase
OCTOBER:	0	100.00 % decrease
NOVEMBER:	2	66.67 % decrease
DECEMBER:	4	33.33 % decrease
JANUARY:	0	100.00 % decrease
FEBRUARY:	7	250.00 % increase
MARCH:	5	400.00 % increase
TOTAL:	52	18.18 % increase
Average New Files Per Month	*4*	

TOTAL = NEW PSGB FILES FOR FISCAL 2012-2013		*% of change over previous fiscal*
APRIL:	6	500.00 % increase
MAY:	11	120.00 % increase
JUNE:	16	300.00 % increase
JULY:	7	16.67 % increase
AUGUST:	8	33.33 % decrease
SEPTEMBER:	2	66.67 % decrease
OCTOBER:	6	N/A % increase
NOVEMBER:	4	100.00 % increase
DECEMBER:	6	50.00 % increase
JANUARY:	7	N/A % increase
FEBRUARY:	49	600.00 % increase
MARCH:	26	420.00 % increase
TOTAL:	148	184.62 % increase
Average New Files Per Month	*12*	

TOTAL = NEW PSGB FILES FOR FISCAL 2013-2014		*% of change over previous fiscal*
APRIL:	20	233.33 % increase
MAY:	14	27.27 % increase
JUNE:	5	68.75 % decrease
JULY:	20	185.71 % increase
AUGUST:	4	50.00 % decrease
SEPTEMBER:	3	50.00 % increase
OCTOBER:	0	100.00 % decrease
NOVEMBER:	5	25.00 % increase
DECEMBER:	27	350.00 % increase
JANUARY:	10	42.86 % increase
FEBRUARY:	3	93.88 % decrease
MARCH:	1	96.15 % decrease
TOTAL:	112	24.32 % decrease
Average New Files Per Month	*9*	

TOTAL = NEW PSGB FILES FOR FISCAL 2014-2015		*% of change over previous fiscal*
APRIL:	8	60.00 % decrease
MAY:	3	78.57 decrease
JUNE:	67	1240.00 increase
JULY:	15	25.00 decrease
AUGUST:	0	100.00 decrease
SEPTEMBER:	6	100.00 increase
OCTOBER:	12	N/A increase
NOVEMBER:	1	80.00 decrease
DECEMBER:	7	74.07 decrease
JANUARY:	3	70.00 decrease
FEBRUARY:	8	166.67 increase
MARCH:	13	1200.00 increase
TOTAL:	143	27.68 % increase
Average New Files Per Month	*12*	

6. PSGB CASELOAD 2014-2015

PSGB Caseload 2014/2015

Active Cases as at March 31, 2014	170	
Cases filed in fiscal 2014/2015	143	
Cases re-opened/input in Case Management System	5	
Total Active Cases		**318**
Cases Disposed of:		
By Decision and	23	
Administrative Decisions without Hearing	109	
Settled	24	
Withdrawn	20	
Duplicate File	0	
Total Cases Disposed		**176**
Active Cases at March 31, 2015*		**142**

* Active Inventory	
To Be Scheduled	13
Scheduled Continuation	4
Scheduled	39
Decision Pending	6
Settlement Pending	1
Adjourned Sine Die	79
	142

7. FINANCIAL INFORMATION

The Public Service Grievance Board receives its funds through an allocation from the Grievance Settlement Board, which is funded as a budget item of the Ministry of Labour. Expenditures made on behalf of the PSGB are recovered from the Employer and refunded to the Grievance Settlement Board.

The PSGB charges the Employer a $300 filing fee for each complaint filed at the Board along with the Chair's per diem, administrative, travel costs and hearing rooms booked at the board.

The attributable costs reflect those costs incurred by the Employer that are directly related to the hearing of a particular case such as member per diems, out of town hearing rooms and member travel costs.

Public Service Grievance Board				
	2011-12	**2012-13**	**2013-14**	**2014-15**
Chair Per Diem (annual)	56,440.00	56,440.00	49,368.40	42,164.00
Chair Administrative and Travel Costs	505.79	322.08	0.00	0.00
Member Administrative Costs Non Attributable	0.00	0.00	1,840.70	0.00
Member Travel Costs Non Attributable	0.00	0.00	1,312.58	0.00
Attributable Costs	39,925.02	48,694.77	56,778.44	25,776.21
Administrative/Filing Fees (# of cases filed x $300)	15,300.00	41,100.00	37,500.00	41,700.00
Hearing Rooms at the Board	4,400.00	10,200.00	10,200.00	9,200.00
Total:	**$116,570.81**	**$156,756.85**	**$157,000.12**	**$118,840.21**
Number of Cases filed	**53**	**148**	**112**	**143**
Average Case Cost *[total costs/# of cases filed]*	**$ 2,199.45**	**$ 1,059.17**	**$ 1,401.79**	**$ 831.05**

8. PERFORMANCE MEASURES

Measure	2014-2015 Commitments	2014-15 Achievements
Elapsed time to acknowledge receipt of complaint	100% of complaints received to be acknowledged within 30 days.	100% of complaints received were acknowledged within 30 days.
Elapsed time from receipt of Application Form to offering dates	100% of complaints will be offered dates for scheduling within 30 days of receipt of Application Form.	100% of complaints were offered dates for scheduling within 30 days of receipt of Application Form.
Percent of complaints disposed of by settlement, withdrawal or administrative decision	50% of complaints disposed of by settlement, withdrawal or administrative decision	62% of complaints disposed of by administrative decision, and 25% by withdrawal or settlement.
Timeliness of decisions released by the PSGB	80% of decisions to be released within 90 days of completion of hearing and/or receipt of submissions.	The Board released 10 decisions with 6 meeting the commitment of a 90 day release and 4 fell outside the 90 day commitment.
Percent of judicial reviews upheld	100% of decisions upheld on judicial review (i.e. application for judicial review dismissed)	1 decision was put to Judicial Review in this fiscal year. Both this application and one from last fiscal year were dismissed by the courts this fiscal year.